

Joint Findings of Fact

1. Plaintiff is a resident of Tennessee.
2. Defendant resides in this District.
3. Defendant is the operator of a YouTube channel called MommyRamblingsBlog.
4. Defendant is the only person able to post content on the YouTube channel called MommyRamblingsBlog.
5. Plaintiff runs the YouTube channel called Hell to the No.
6. Plaintiff, for some time, ran that YouTube channel anonymously.
7. YouTube, operated by Google LLC, provides a means, under the Digital Millennium Copyright Act (“**DMCA**”), to report videos that a person believes infringe their copyrights.
8. In all of the videos subject to the DMCA takedown reports below, Plaintiff used portions of Defendant’s videos posted to her MommyRamblingsBlog channel without Defendant’s permission.
9. On or about March 24, 2022, Defendant submitted two DMCA takedowns to YouTube against one of Plaintiff’s videos: JIMI FALLS - POOR MERB !1SUBSCRIBE!! and NAPKIN GATE 2022 posted to Hell to the No YouTube channel.
10. True and correct copies of the confirmation she received from YouTube as to these videos are attached as Plaintiff’s Exhibits , 17 (NAPKIN GATE 2022).
11. On or about March 30, 2022, Defendant submitted DMCA takedowns to YouTube against six of Plaintiff’s videos: AROUND AND AROUND WE GO; TAMMY McD17 NEEDS ATTENTION; CZECHOSLOVAKIA??? WTF #merb #mommyramblings #natasha; NAPKIN GATE 2022; YOUR SON SAID HE DID

NOT KNOW HOW TO PRAY; JIMI FALLS - POOR MERB. !1SUBSCRIBE!!; and PART TWO OF MARIE OSMOND posted to the Hell to the No YouTube channel.

12. True and correct copies of the confirmation she received from YouTube as to these videos are attached as Plaintiff's Exhibits 23 (PART TWO OF MARIE OSMOND); [REDACTED].
13. On March 31, 2022 Attorney Omar Darwich submitted counternotices on behalf of Plaintiff, all asserting fair use, concerning Defendant's reporting of the following videos: AROUND AND AROUND WE GO; TAMMY McD17 NEEDS ATTENTION; CZECHOSLOVAKIA??? WTF #merb #mommyramblings #natasha; NAPKIN GATE 2022; YOUR SON SAID HE DID NOT KNOW HOW TO PRAY; JIMI FALLS - POOR MERB. !1SUBSCRIBE!!; and PART TWO OF MARIE OSMOND.
14. True and correct copies of the confirmations of the counternotices from YouTube are attached as Plaintiff's Exhibits 41, 42.
15. A true and correct copy of the notice Defendant received from YouTube as to the counternotices above are attached as Plaintiff's Exhibit 4.
16. On or about April 14, 2022, Defendant submitted DMCA takedowns to YouTube against two of Plaintiff's videos: HOW DARE YOU MERB!!; DANGER [Caution Emoji] FIRE PROJECT W MERB; NO Words [Grimace Emoji]; WHO GIVES A FLIP; and Circling the Drain part one.
17. True and correct copies of the confirmation she received from YouTube as to these videos are attached as Plaintiff's Exhibits [REDACTED].
18. On or about September 3, 2022, Defendant submitted a DMCA takedown to YouTube against one of Plaintiff's videos: HOW DARE YOU MERB!!.

19. A true and correct copy of the confirmation she received from YouTube as to these videos are attached as Plaintiff's Exhibit 18.
20. On or about September 26 and 27, 2022, Defendant submitted DMCA takedowns to YouTube against five of Plaintiff's videos: HOW DARE YOU MERB!!; DANGER [Caution Emoji] FIRE PROJECT W MERB; NO Words [Grimace Emoji]; WHO GIVES A FLIP; and Circling the Drain part one.
21. True and correct copies of the confirmation she received from YouTube as to these videos are attached as Plaintiff's Exhibits 27 (DANGER [Caution Emoji] FIRE PROJECT W MERB); 30 (NO Words), .
22. On October 3, 2022, Attorney John Gibson submitted counter notices on behalf of Plaintiff, all asserting fair use, concerning Defendant's reporting of the following videos: HOW DARE YOU MERB!!; DANGER [Caution Emoji] FIRE PROJECT W MERB; NO Words [Grimace Emoji]; WHO GIVES A FLIP; and Circling the Drain part one.
23. True and correct copies of the confirmation of the counter notices from YouTube are attached as Plaintiff's Exhibits 43 and 44.
24. A true and correct copy of the notices Defendant received from YouTube as to the counter notices above are attached as Plaintiff's Exhibit 5.

Plaintiff's Additional Proposed Findings of Fact

Defendant's Additional Proposed Findings of Fact

Proposed Joint Conclusions of Law

1. The Court has subject matter jurisdiction over this matter.

2. The Court has personal jurisdiction over the parties.
3. The parties agree that Section 512(f) of the Copyright Act applies to this dispute, which reads:

Misrepresentations.—Any person who knowingly materially misrepresents under this section—

(1)that material or activity is infringing, or

(2)that material or activity was removed or disabled by mistake or misidentification,

shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.

17 U.S.C. 512(f)

Plaintiff's Additional Proposed Conclusions of Law

Defendant's Additional Proposed Conclusions of Law